

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 11422 OF 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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VIJAYKUMAR RANJITSING SOLANKI - Petitioner(s)

Versus

STATE OF GUJARAT & ANR. - Respondent(s)

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Appearance :

Ms. Farhana Y. Mansuri for Petitioner(s).

Ms. Nisha Parikh, Assistant Government Pleader for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 26/03/2007

ORAL JUDGMENT

By this petition, the petitioner seeks to challenge part of the order dated 28th December, 1993 passed by the Collector wherein while renewing the lease for a period of seven years, that is, from 1st August, 1987 to 31st July, 1994, he has fixed the rent or license fees at the

market rate at Rs.200/- per sq. mtr., totalling Rs.62,083.10 per annum. The petitioner states and submits that so far as the renewal of the lease is concerned, the petitioner is not aggrieved by the said order, but, the petitioner is aggrieved by the order fixing the rent at the rate of Rs.200/- per sq. mtr.. It is submitted that from similarly situated persons shown in paragraphs (e) and (f) of paragraph 6, the rent is being charged at the rate of Rs.40/- or Rs.20/- per sq. mtr. It is submitted that the Collector had acted in capricious, arbitrary and whimsical manner and even without understanding and appreciating the market value or even without giving any opportunity of hearing to the petitioner, he had fixed the rent at a much higher rate.

2. A Notice was issued to the Government in the year 1994, but, for the reasons best known to the Government and its competent Officers, they have not chosen to file any counter affidavit in the last thirteen years.

3. As the statements made by the petitioner stand unchallenged and uncontroverted, I have no reason to disbelieve that the Collector is charging market value at the rate of Rs.20/- or Rs.40/- per sq. mtr. from others. If that be so, the action of the Collector *qua* the petitioner would be absolutely illegal, especially, when he has not assigned any reason for fixing such high rent. The order dated 28th December, 1993 so far as it relates to fixing of the rent is concerned, is hereby quashed and set aside.

4. The Collector shall issue a notice to the petitioner to show cause that why the rent in accordance with law be not fixed on the dates so given in the notice to the petitioner. If the petitioner appears and shows the cause, then, after giving an opportunity of hearing to the

petitioner, the Collector shall decide the matter afresh. In case the petitioner does not appear on the date of hearing, then, the Collector would be entitled to proceed *ex parte* and pass the order in accordance with law. The petition stands disposed of. Rule is made absolute to the aforesaid extent only. No costs.

[R.S.Garg, J.]

*kamlesh**